

REMARKS

In the Office Action, claims 1-28 were rejected. No further amendments are made by this Response, and claims 1-28 will remain pending in the present patent application. Reconsideration and allowance of all pending claims are requested.

Provisional Double Patenting Rejection

In the Office Action, claims 1-28 now pending in the application were rejected. The claims were first rejected under the judicially created doctrine of double patenting. In particular, the Examiner indicated that the claims are believed to be unpatentable over claims 1-44 of co-pending application Serial No. 09/199,506. Applicants believe that the claims are not unpatentable over the cited application, but would consider filing a Terminal Disclaimer in the event the rejection is ultimately maintained but the claims are found otherwise allowable. Applicants also point out that should the present claims issue prior to the claims identified by the Examiner, any need to file a Terminal Disclaimer would, in the Applicants' opinion, be obviated.

Rejections Under 35 U.S.C. § 102

A *prima facie* case of anticipation under 35 U.S.C. § 102 requires a showing that each limitation of a claim is found in a single reference, practice or device. *In re Donohue*, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

All of claims 1-28 were rejected under 35 U.S.C. § 102(e) as being anticipated by Derzay et al. The Derzay et al. reference does not anticipate the pending claims because the reference does not disclose or suggest all of the features recited in the claims.

Claim 1 and Its Dependent Claims

In particular, claim 1 recites *inter alia*, "identifying a standard service function from a plurality of service functions" and "accessing data stored at the medical diagnostic

station as defined by the standard service function, and transmitting data to the field service unit in response to the service request.” The Examiner “interprets the predefined functions to be those illustrated as in 206, Fig. 8” of the Derzay et al. reference. Office Action, ¶ 19. Applicants respectfully submit that the Examiner has mischaracterized the service request screen (202, Fig. 8) and the ‘problem area’ selections (206, Fig. 8) of the Derzay et al. reference. Indeed, although the Derzay et al. system was known to the Applicants, it was not even considered particularly relevant as to the use of “standard service functions.”

The purpose of the service request screen of Derzay et al. is to alert the service facility that a problem exists and to request service on the medical diagnostic station. Derzay et al., column 13, lines 34-39. While the problem area selections allow the problem to be better defined (see Derzay et al., column 14, lines 3-5), they are not standard service functions which a service request management device can automatically complete and transmit a report about to the sender of the request. See present Application, claim 1; specification page 5, lines 22-24; page 8 lines 19-24; page 10, lines 6-12. Additionally, the problem area selections of Derzay et al. (see Derzay et al., element 206, Fig. 8) cannot be standard service functions, as contemplated by the present claims, because the problem area selections are merely categories of possible problems and not functions. See Derzay et al., column 14, lines 3-5.

The Examiner also apparently interprets service history (220, Fig. 9), system usage (224, Fig. 9), tube usage (228, Fig. 9), monitoring (226, Fig. 9), and software protocols (240, Fig. 11) of Derzay et al. as predefined functions. The indicated features of Derzay et al. are not standard service functions as required by claim 1 of the present application. The functions in Derzay et al. exist to provide historical and operating information to the system operator of the medical diagnostic station (see Derzay et al., column 14, lines 33-67) or to allow viewing and modification of available software to perform specific functions for the system operator. See Derzay et al., column 15, line 29

through column 16, line 9. They do not exist to “provide service to medical diagnostic equipment” as required by claim 1 of the present application and as described in the specification. See present Application, page 9, lines 6-22; page 9, line 30, through page 10, line 18; page 11, line 13-30.

Significantly, the Derzay et al. reference contemplates that the service requests are submitted to the service center, and that the requests are assigned to an engineer who will then execute diagnostic functions which may address the problem reported by the service request. See Derzay et al., element 310, Fig. 13; column 19, lines 6-12. The present application contemplates that the standard service functions can be handled automatically by the service facility without intervention of an engineer. See present Application, page 9, lines 30-31 through page 10, line 1. The Derzay et al. reference does not contemplate requesting a standard service function, and therefore an engineer is generally involved to interpret the service request and perform the proper diagnostic functions. The involvement of an engineer at the service facility, as contemplated by Derzay et al. means the service request management device generally does not receive service requests from the field service unit, access data stored at the medical diagnostic station as defined by the standard service function, and transmit data to the field service unit in response to the service request, as contemplated by claim 1 of the present application.

In summary, the Derzay et al. reference does not include standard service functions or a service request management device capable of automatically fulfilling a service request. Thus, the Derzay et al. reference does not disclose all the features of claim 1. At best the functions the Examiner has pointed out could make claim 1 obvious in light of Derzay et al. While Applicants do not believe this to be the case, they respectfully point out that Derzay et al. is not available prior art under 35 U.S.C. §103 as Derzay et al. and the present application were commonly assigned or under an obligation of common assignment at the time the present invention was made. Claim 1, and the

claims depending therefrom are therefore believed to be clearly allowable over Derzay et al. Their consideration and allowance are requested.

Claim 8 and Its Dependent Claims

Claim 8, in a manner similar to claim 1, recites an automated service facility that includes a server configured to “execute a plurality of predefined service functions.” The recited field service unit then transmits service requests to the automated service facility “including identification of a predefined service function.” These predefined service functions are the standard service functions described above.

As noted in relation to claim 1, Derzay et al. simply do not provide for predefined service functions that can be selected and transmitted from a field service unit. Thus, Derzay et al. cannot anticipate claim 8 or the claims depending therefrom. Reconsideration of these claims are requested.

Claim 16 and Its Dependent Claims

Independent claim 16, similarly, recites a method that includes composing a service request, the service request including “identification of a service function from a plurality of predefined service functions.” The method also includes accessing operational data “as defined by the at least one service function.” As noted above, Derzay et al. do not provide for predefined service functions that can be selected in the manner recited in claim 16, or used as a basis for accessing operational data as defined by the claim. Claim 16, and the claims depending therefrom, are therefore believed to be clearly allowable over the cited reference.

Claim 23 and Its Dependent Claims

Finally, claim 23, in a manner similar to the previous independent claims, recites a method that includes composing a service request that includes “identification of at least one of the predefined service functions.” Claim 23 adds, in a previous step, that a menu

of predefined service functions is established. As noted above, Derzay et al. simply do not provide for predefined service functions or the composing of a service request based upon identification of such functions. Claim 23 and the claims depending therefrom are therefore not anticipated by Derzay et al., and are believed to be in condition for allowance.

Conclusion

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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